



General Assembly

January Session, 2007

***Raised Bill No. 7116***

LCO No. 4182

\* \_\_\_\_HB07116INS\_\_041107\_\_ \*

Referred to Committee on Banks

Introduced by:  
(BA )

***AN ACT ALLOWING PARTICIPATION IN THE NATIONAL MORTGAGE  
LICENSING SYSTEM.***

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1      Section 1. (NEW) (*Effective September 30, 2008*) The Banking  
2      Commissioner may participate in the national mortgage licensing  
3      system and permit such system to process applications for first  
4      mortgage lender, first mortgage correspondent lender, first mortgage  
5      broker, secondary mortgage lender, secondary mortgage  
6      correspondent lender, secondary mortgage broker and originator  
7      licenses in this state and receive and maintain records related to such  
8      licenses that are allowed or required to be maintained by the  
9      commissioner.

10     Sec. 2. Section 36a-2 of the general statutes is repealed and the  
11     following is substituted in lieu thereof (*Effective September 30, 2008*):

12     As used in this title, unless the context otherwise requires:

13     (1) "Affiliate" of a person means any person controlling, controlled  
14     by, or under common control with, that person;

15       (2) "Applicant" with respect to any license or approval provision  
16 pursuant to this title means a person who applies for that license or  
17 approval;

18       (3) "Automated teller machine" means a stationary or mobile  
19 unattended device, including a satellite device but excluding a point of  
20 sale terminal, at which banking transactions, including, but not limited  
21 to, deposits, withdrawals, advances, payments or transfers, may be  
22 conducted;

23       (4) "Bank" means a Connecticut bank or a federal bank;

24       (5) "Bank and trust company" means an institution chartered or  
25 organized under the laws of this state as a bank and trust company;

26       (6) "Bank holding company" has the meaning given to that term in  
27 12 USC Section 1841(a), as from time to time amended, except that the  
28 term "bank", as used in 12 USC Section 1841(a) includes a bank or out-  
29 of-state bank that functions solely in a trust or fiduciary capacity;

30       (7) "Capital stock" when used in conjunction with any bank or out-  
31 of-state bank means a bank or out-of-state bank that is authorized to  
32 accumulate funds through the issuance of its capital stock;

33       (8) "Client" means a beneficiary of a trust for whom the Connecticut  
34 bank acts as trustee, a person for whom the Connecticut bank acts as  
35 agent, custodian or bailee, or other person to whom a Connecticut  
36 bank owes a duty or obligation under a trust or other account  
37 administered by such Connecticut bank, regardless of whether such  
38 Connecticut bank owes a fiduciary duty to the person;

39       (9) "Club deposit" means deposits to be received at regular intervals,  
40 the whole amount deposited to be withdrawn by the owner or repaid  
41 by the bank in not more than fifteen months from the date of the first  
42 deposit, and upon which no interest or dividends need to be paid;

43       (10) "Commissioner" means the Banking Commissioner and, with  
44 respect to any function of the commissioner, includes any person

45 authorized or designated by the commissioner to carry out that  
46 function;

47 (11) "Company" means any corporation, joint stock company, trust,  
48 association, partnership, limited partnership, unincorporated  
49 organization, limited liability company or similar organization, but  
50 does not include (A) any corporation the majority of the shares of  
51 which are owned by the United States or by any state, or (B) any trust  
52 which by its terms shall terminate within twenty-five years or not later  
53 than twenty-one years and ten months after the death of beneficiaries  
54 living on the effective date of the trust;

55 (12) "Connecticut bank" means a bank and trust company, savings  
56 bank or savings and loan association chartered or organized under the  
57 laws of this state;

58 (13) "Connecticut credit union" means a cooperative, nonprofit  
59 financial institution that (A) is organized under chapter 667 and the  
60 membership of which is limited as provided in section 36a-438a, (B)  
61 operates for the benefit and general welfare of its members with the  
62 earnings, benefits or services offered being distributed to or retained  
63 for its members, and (C) is governed by a volunteer board of directors  
64 elected by and from its membership;

65 (14) "Connecticut credit union service organization" means a credit  
66 union service organization that is incorporated under the laws of this  
67 state, located in this state and established by at least one Connecticut  
68 credit union;

69 (15) "Consolidation" means a combination of two or more  
70 institutions into a new institution; all institutions party to the  
71 consolidation, other than the new institution, are "constituent"  
72 institutions; the new institution is the "resulting" institution;

73 (16) "Control" has the meaning given to that term in 12 USC Section  
74 1841(a), as from time to time amended;

75       (17) "Credit union service organization" means an entity organized  
76 under state or federal law to provide credit union service organization  
77 services primarily to its members, to Connecticut credit unions, federal  
78 credit unions and out-of-state credit unions other than its members,  
79 and to members of any such other credit unions;

80       (18) "Customer" means any person using a service offered by a  
81 financial institution;

82       (19) "Demand account" means an account into which demand  
83 deposits may be made;

84       (20) "Demand deposit" means a deposit that is payable on demand,  
85 a deposit issued with an original maturity or required notice period of  
86 less than seven days or a deposit representing funds for which the  
87 bank does not reserve the right to require at least seven days' written  
88 notice of the intended withdrawal, but does not include any time  
89 deposit;

90       (21) "Deposit" means funds deposited with a depository;

91       (22) "Deposit account" means an account into which deposits may  
92 be made;

93       (23) "Depositor" includes a member of a mutual savings and loan  
94 association;

95       (24) "Director" means a member of the governing board of a  
96 financial institution;

97       (25) "Equity capital" means the excess of a Connecticut bank's total  
98 assets over its total liabilities, as defined in the instructions of the  
99 federal Financial Institutions Examination Council for consolidated  
100 reports of condition and income;

101       (26) "Executive officer" means every officer of a Connecticut bank  
102 who participates or has authority to participate, otherwise than in the  
103 capacity of a director, in major policy-making functions of such bank,

104 regardless of whether such officer has an official title or whether that  
105 title contains a designation of assistant and regardless of whether such  
106 officer is serving without salary or other compensation. The president,  
107 vice president, secretary and treasurer of such bank are deemed to be  
108 executive officers, unless, by resolution of the governing board or by  
109 such bank's bylaws, any such officer is excluded from participation in  
110 major policy-making functions, otherwise than in the capacity of a  
111 director of such bank, and such officer does not actually participate in  
112 such policy-making functions;

113 (27) "Federal agency" has the meaning given to that term in 12 USC  
114 Section 3101, as from time to time amended;

115 (28) "Federal bank" means a national banking association, federal  
116 savings bank or federal savings and loan association having its  
117 principal office in this state;

118 (29) "Federal branch" has the meaning given to that term in 12 USC  
119 Section 3101, as from time to time amended;

120 (30) "Federal credit union" means any institution chartered or  
121 organized as a federal credit union pursuant to the laws of the United  
122 States having its principal office in this state;

123 (31) "Fiduciary" means a person undertaking to act alone or jointly  
124 with others primarily for the benefit of another or others in all matters  
125 connected with its undertaking and includes a person acting in the  
126 capacity of trustee, executor, administrator, guardian, assignee,  
127 receiver, conservator, agent, custodian under the Connecticut Uniform  
128 Gifts to Minors Act or the Uniform Transfers to Minors Act, and acting  
129 in any other similar capacity;

130 (32) "Financial institution" means any Connecticut bank,  
131 Connecticut credit union, or other person whose activities in this state  
132 are subject to the supervision of the commissioner, but does not  
133 include a person whose activities are subject to the supervision of the  
134 commissioner solely pursuant to chapter 672a, 672b or 672c or any

135 combination thereof;

136 (33) "Foreign bank" has the meaning given to that term in 12 USC  
137 Section 3101, as from time to time amended;

138 (34) "Foreign country" means any country other than the United  
139 States and includes any colony, dependency or possession of any such  
140 country;

141 (35) "Governing board" means the group of persons vested with the  
142 management of the affairs of a financial institution irrespective of the  
143 name by which such group is designated;

144 (36) "Holding company" means a bank holding company or a  
145 savings and loan holding company, except, as used in sections 36a-180  
146 to 36a-191, inclusive, "holding company" means a company that  
147 controls a bank;

148 (37) "Insured depository institution" has the meaning given to that  
149 term in 12 USC Section 1813, as from time to time amended;

150 (38) "Licensee" means any person who is licensed or required to be  
151 licensed pursuant to the applicable provisions of this title;

152 (39) "Loan" includes any line of credit or other extension of credit;

153 (40) "Merger" means the combination of one or more institutions  
154 with another which continues its corporate existence; all institutions  
155 party to the merger are "constituent" institutions; the merging  
156 institution which upon the merger continues its existence is the  
157 "resulting" institution;

158 (41) "Mutual" when used in conjunction with any institution that is a  
159 bank or out-of-state bank means any such institution without capital  
160 stock;

161 (42) "Mutual holding company" means a mutual holding company  
162 organized under sections 36a-192 to 36a-199, inclusive, and unless

163 otherwise indicated, a subsidiary holding company controlled by a  
164 mutual holding company organized under sections 36a-192 to 36a-199,  
165 inclusive;

166 (43) "National mortgage licensing system" means the national  
167 mortgage licensing system to be implemented pursuant to a uniform  
168 mortgage licensing project under the auspices of the Conference of  
169 State Bank Supervisors and the American Association of Residential  
170 Mortgage Regulators;

171 ~~[(43)]~~ (44) "Out-of-state" includes any state other than Connecticut  
172 and any foreign country;

173 ~~[(44)]~~ (45) "Out-of-state bank" means any institution that engages in  
174 the business of banking, but does not include a bank, Connecticut  
175 credit union, federal credit union or out-of-state credit union;

176 ~~[(45)]~~ (46) "Out-of-state credit union" means any credit union other  
177 than a Connecticut credit union or a federal credit union;

178 ~~[(46)]~~ (47) "Out-of-state trust company" means any company  
179 chartered to act as a fiduciary but does not include a company  
180 chartered under the laws of this state, a bank, an out-of-state bank, a  
181 Connecticut credit union, a federal credit union or an out-of-state  
182 credit union;

183 ~~[(47)]~~ (48) "Person" means an individual, company, including a  
184 company described in subparagraphs (A) and (B) of subdivision (11) of  
185 this section, or any other legal entity, including a federal, state or  
186 municipal government or agency or any political subdivision thereof;

187 ~~[(48)]~~ (49) "Point of sale terminal" means a device located in a  
188 commercial establishment at which sales transactions can be charged  
189 directly to the buyer's deposit, loan or credit account, but at which  
190 deposit transactions cannot be conducted;

191 ~~[(49)]~~ (50) "Reorganized savings bank" means any savings bank  
192 incorporated and organized in accordance with sections 36a-192 and

193 36a-193;

194 [(50)] (51) "Reorganized savings and loan association" means any  
195 savings and loan association incorporated and organized in  
196 accordance with sections 36a-192 and 36a-193;

197 [(51)] (52) "Reorganized savings institution" means any reorganized  
198 savings bank or reorganized savings and loan association;

199 [(52)] (53) "Representative office" has the meaning given to that term  
200 in 12 USC Section 3101, as from time to time amended;

201 [(53)] (54) "Reserves for loan and lease losses" means the amounts  
202 reserved by a Connecticut bank against possible loan and lease losses  
203 as shown on the bank's consolidated reports of condition and income;

204 [(54)] (55) "Retail deposits" means any deposits made by individuals  
205 who are not "accredited investors", as defined in 17 CFR Section  
206 230.501(a);

207 [(55)] (56) "Satellite device" means an automated teller machine  
208 which is not part of an office of the bank, Connecticut credit union or  
209 federal credit union which has established such machine;

210 [(56)] (57) "Savings account" means a deposit account, other than an  
211 escrow account established pursuant to section 49-2a, into which  
212 savings deposits may be made and which account must be evidenced  
213 by periodic statements delivered at least semiannually or by a  
214 passbook;

215 [(57)] (58) "Savings and loan association" means an institution  
216 chartered or organized under the laws of this state as a savings and  
217 loan association;

218 [(58)] (59) "Savings bank" means an institution chartered or  
219 organized under the laws of this state as a savings bank;

220 [(59)] (60) "Savings deposit" means any deposit other than a demand



221 deposit or time deposit on which interest or a dividend is paid  
222 periodically;

223     ~~[(60)]~~ ~~(61)~~ "Savings and loan holding company" has the meaning  
224 given to that term in 12 USC Section 1467a, as from time to time  
225 amended;

226     ~~[(61)]~~ ~~(62)~~ "Share account holder" means a person who maintains a  
227 share account in a Connecticut credit union, federal credit union or  
228 out-of-state credit union that maintains in this state a branch, as  
229 defined in section 36a-435b;

230     ~~[(62)]~~ ~~(63)~~ "State" means any state of the United States, the District of  
231 Columbia, any territory of the United States, Puerto Rico, Guam,  
232 American Samoa, the trust territory of the Pacific Islands, the Virgin  
233 Islands and the Northern Mariana Islands;

234     ~~[(63)]~~ ~~(64)~~ "State agency" has the meaning given to that term in 12  
235 USC Section 3101, as from time to time amended;

236     ~~[(64)]~~ ~~(65)~~ "State branch" has the meaning given to that term in 12  
237 USC Section 3101, as from time to time amended;

238     ~~[(65)]~~ ~~(66)~~ "Subsidiary" has the meaning given to that term in 12  
239 USC Section 1841(d), as from time to time amended;

240     ~~[(66)]~~ ~~(67)~~ "Subsidiary holding company" means a stock holding  
241 company, controlled by a mutual holding company, that holds one  
242 hundred per cent of the stock of a reorganized savings institution;

243     ~~[(67)]~~ ~~(68)~~ "Supervisory agency" means: (A) The commissioner; (B)  
244 the Federal Deposit Insurance Corporation; (C) the Resolution Trust  
245 Corporation; (D) the Office of Thrift Supervision; (E) the National  
246 Credit Union Administration; (F) the Board of Governors of the  
247 Federal Reserve System; (G) the United States Comptroller of the  
248 Currency; and (H) any successor to any of the foregoing agencies or  
249 individuals;

250 [(68)] (69) "Time account" means an account into which time  
251 deposits may be made;

252 [(69)] (70) "Time deposit" means a deposit that the depositor or  
253 share account holder does not have a right and is not permitted to  
254 make withdrawals from within six days after the date of deposit,  
255 unless the deposit is subject to an early withdrawal penalty of at least  
256 seven days' simple interest on amounts withdrawn within the first six  
257 days after deposit, subject to those exceptions permissible under 12  
258 CFR Part 204, as from time to time amended;

259 [(70)] (71) "Trust bank" means a Connecticut bank organized to  
260 function solely in a fiduciary capacity; and

261 [(71)] (72) "Uninsured bank" means a Connecticut bank that does  
262 not accept retail deposits and for which insurance of deposits by the  
263 Federal Deposit Insurance Corporation or its successor agency is not  
264 required.

265 Sec. 3. Section 36a-21 of the general statutes is repealed and the  
266 following is substituted in lieu thereof (*Effective September 30, 2008*):

267 (a) Notwithstanding any provision of state law and except as  
268 provided in subsection (b) of this section, the following records of the  
269 Department of Banking shall not be disclosed by the commissioner or  
270 any employee of the Department of Banking, or be subject to public  
271 inspection or discovery:

272 (1) Examination and investigation reports and information  
273 contained in or derived from such reports, including examination  
274 reports prepared by the commissioner or prepared on behalf of or for  
275 the use of the commissioner;

276 (2) Confidential supervisory or investigative information obtained  
277 from a state, federal or foreign regulatory or law enforcement agency;  
278 and

279 (3) Information obtained, collected or prepared in connection with

280 examinations, inspections or investigations, and complaints from the  
 281 public received by the Department of Banking, if such records are  
 282 protected from disclosure under federal or state law or, in the opinion  
 283 of the commissioner, such records would disclose, or would  
 284 reasonably lead to the disclosure of: (A) Investigative information the  
 285 disclosure of which would be prejudicial to such investigation, until  
 286 such time as the investigation and all related administrative and legal  
 287 actions are concluded; (B) personal or financial information, including  
 288 account or loan information, without the written consent of the person  
 289 or persons to whom the information pertains; or (C) information that  
 290 would harm the reputation of any person or affect the safety and  
 291 soundness of any person whose activities in this state are subject to the  
 292 supervision of the commissioner, and the disclosure of such  
 293 information under this subparagraph would not be in the public  
 294 interest.

295 (b) The commissioner may, without waiving any privilege, disclose  
 296 the records described in subsection (a) of this section for any  
 297 appropriate supervisory, governmental, law enforcement or other  
 298 public purpose. Any such disclosure shall be made under safeguards  
 299 designed to prevent further dissemination of such records. In any  
 300 proceeding before a court, the court may issue a protective order in  
 301 appropriate circumstances to protect the confidentiality of any such  
 302 record and order that any such record on file with the court or filed in  
 303 connection with the court proceeding be sealed and that the public be  
 304 excluded from any portion of the proceeding at which any such record  
 305 is disclosed.

306 (c) No director, officer, employee or agent of any Connecticut bank  
 307 or Connecticut credit union shall disclose without the prior written  
 308 consent of the commissioner any information contained in an  
 309 examination report about such bank or credit union, which  
 310 information is not otherwise a matter of public record.

311 (d) The provisions of this section shall not apply to the disclosure of  
 312 any record that is maintained by the commissioner with the national

313 mortgage licensing system to any person authorized to access such  
314 record on the system.

315 Sec. 4. Section 36a-485 of the general statutes is repealed and the  
316 following is substituted in lieu thereof (*Effective September 30, 2008*):

317 As used in this section and sections 36a-486 to 36a-498a, inclusive, as  
318 amended by this act, unless the context otherwise requires:

319 (1) "Advance fee" means any consideration paid or given, directly or  
320 indirectly, to a mortgage lender, first mortgage broker or originator  
321 required to be licensed [or registered] pursuant to sections 36a-485 to  
322 36a-498a, inclusive, as amended by this act, prior to the closing of a  
323 first mortgage loan to any person, including, but not limited to, loan  
324 fees, points, broker's fees or commissions, transaction fees or similar  
325 prepaid finance charges;

326 (2) "Advertise" or "advertisement" means the use of media, mail,  
327 computer, telephone, personal contact or any other means to offer the  
328 opportunity for a first mortgage loan;

329 (3) "First mortgage broker" means a person who, for a fee,  
330 commission or other valuable consideration, directly or indirectly,  
331 negotiates, solicits, arranges, places or finds a first mortgage loan that  
332 is to be made by a mortgage lender, whether or not the mortgage  
333 lender is required to be licensed under sections 36a-485 to 36a-498a,  
334 inclusive, as amended by this act;

335 (4) "First mortgage correspondent lender" means a person engaged  
336 in the business of making first mortgage loans in such person's own  
337 name where the loans are not held by such person for more than  
338 ninety days and are funded by another person through a warehouse  
339 agreement, table funding agreement or similar agreement;

340 (5) "First mortgage lender" means a person engaged in the business  
341 of making first mortgage loans: (A) In such person's own name  
342 utilizing such person's own funds, or (B) by funding loans through a

343 table funding agreement;

344 (6) "First mortgage loan" means a loan or an extension of credit,  
345 including, but not limited to, an extension of credit pursuant to a  
346 contract or an assigned contract for the sale of goods or services, made  
347 to a natural person, the proceeds of which are to be used primarily for  
348 personal, family or household purposes, and which is secured by a  
349 first mortgage upon any interest in one-to-four-family residential  
350 owner-occupied real property located in this state which is not subject  
351 to any prior mortgages and includes the renewal or refinancing of an  
352 existing first mortgage loan;

353 (7) "Mortgage lender" means a first mortgage lender, a first  
354 mortgage correspondent lender, or both;

355 (8) "Originator" means an individual who is employed or retained  
356 by a mortgage lender or first mortgage broker that is required to be  
357 licensed under sections 36a-485 to 36a-498a, inclusive, as amended by  
358 this act, for, or with the expectation of, a fee, commission or other  
359 valuable consideration, to negotiate, solicit, arrange or find a first  
360 mortgage loan. "Originator" does not include an officer, if the  
361 mortgage lender or first mortgage broker licensee is a corporation; a  
362 general partner, if the licensee is a partnership; a member, if the  
363 licensee is a limited liability company; or a sole proprietor, if the  
364 licensee is a sole proprietorship;

365 (9) "Residential property" means improved real property used or  
366 occupied, or intended to be used or occupied, for residential purposes;

367 (10) "Simulated check" means a document that imitates or resembles  
368 a check but is not a negotiable instrument;

369 (11) "Table funding agreement" means an agreement wherein a  
370 person agrees to fund mortgage loans to be made in another person's  
371 name and to purchase such loans after they are made; and

372 (12) "Warehouse agreement" means an agreement to provide credit

373 to a person to enable the person to have funds to make mortgage loans  
374 and hold such loans pending sale to other persons.

375 Sec. 5. Section 36a-486 of the general statutes is repealed and the  
376 following is substituted in lieu thereof (*Effective September 30, 2008*):

377 (a) No person shall engage in the business of making first mortgage  
378 loans or act as a first mortgage broker in this state unless such person  
379 has first obtained the required license in accordance with the  
380 provisions of sections 36a-485 to 36a-498a, inclusive, as amended by  
381 this act. A first mortgage correspondent lender shall not be deemed to  
382 be acting as a first mortgage lender if such first mortgage  
383 correspondent lender makes a loan utilizing its own funds in a  
384 situation where another person does not honor such person's  
385 commitment to fund the loan.

386 (b) No [licensee] person licensed as a mortgage lender or first  
387 mortgage broker shall employ or retain an originator [without first  
388 registering] unless such originator is licensed under sections 36a-485 to  
389 36a-498a, inclusive, as amended by this act, provided such  
390 [registration] licensure shall not be required for any originator who is  
391 [registered by such licensee] licensed under sections 36a-510 to 36a-  
392 524, inclusive, as amended by this act. No individual may act as an  
393 originator without being [registered] licensed, or act as an originator,  
394 as defined in sections 36a-485 and 36a-510, as amended by this act, for  
395 more than one person. The [registration] license of an originator is not  
396 effective during any period when such originator is not associated  
397 with a [licensee] licensed mortgage lender or first mortgage broker.  
398 Both the originator and the [licensee] mortgage lender and first  
399 mortgage broker shall promptly notify the commissioner, in writing, of  
400 the termination of employment or services of an originator.

401 (c) Each first mortgage loan negotiated, solicited, placed, found or  
402 made without a license [or registration] shall constitute a separate  
403 violation for purposes of section 36a-50.

404 Sec. 6. Section 36a-488 of the general statutes is repealed and the

405 following is substituted in lieu thereof (*Effective September 30, 2008*):

406 (a) (1) The commissioner shall not issue a license as a first mortgage  
 407 lender, a first mortgage correspondent lender or a first mortgage  
 408 broker to any person unless such person meets the following tangible  
 409 net worth and experience requirements, as applicable: (A) The  
 410 minimum tangible net worth requirement for a first mortgage lender  
 411 shall be two hundred fifty thousand dollars and the minimum tangible  
 412 net worth requirement for a first mortgage correspondent lender and a  
 413 first mortgage broker shall be twenty-five thousand dollars, and (B) a  
 414 mortgage lender shall have, at the location for which the license is  
 415 sought, a person with supervisory authority over the lending activities  
 416 who has at least three years' experience in the mortgage lending  
 417 business within the five years immediately preceding the application  
 418 for the license and a first mortgage broker shall have, at the location  
 419 for which the license is sought, a person with supervisory authority  
 420 over the brokerage activities who has at least three years' experience in  
 421 the mortgage lending or mortgage brokerage business within the five  
 422 years immediately preceding the application for the license. [,  
 423 provided such experience requirements shall not apply to any person  
 424 whose license is renewed effective October 1, 2002.]

425 (2) Each licensee shall maintain the net worth required by this  
 426 subsection and shall promptly notify the commissioner if such  
 427 licensee's net worth falls below the net worth required by this  
 428 subsection.

429 (b) The commissioner may issue a first mortgage lender license, a  
 430 first mortgage correspondent lender license, or a first mortgage broker  
 431 license. Each first mortgage lender licensee may also act as a first  
 432 mortgage correspondent lender and a first mortgage broker, and each  
 433 first mortgage correspondent lender licensee may also act as a first  
 434 mortgage broker. An application for a license or renewal of such  
 435 license shall be made under oath and on a form provided by the  
 436 commissioner. The application shall include: (1) The type of license  
 437 sought; (2) the name and address of the applicant; (3) the location for

438 which the license is sought; (4) the name and address of each member,  
 439 partner, officer, director, authorized agent and shareholder owning ten  
 440 per cent or more of the outstanding stock, as applicable; (5) if the  
 441 applicant is a trust or the lead lender in one or more participation  
 442 loans, the name and address of each trustee or lead lender and each  
 443 beneficiary of the trust or other participant lenders in all outstanding  
 444 participation loans; (6) a financial statement as of a date not more than  
 445 six months prior to the filing of the application which reflects tangible  
 446 net worth, and if such financial statement is unaudited, the proprietor,  
 447 general partner, or duly authorized officer, trustee or member shall  
 448 swear to its accuracy under oath before a notary public; (7) evidence  
 449 that the person with supervisory authority over the lending or  
 450 brokerage activities at the location for which the license is sought  
 451 meets the experience required by subsection (a) of this section; and (8)  
 452 [an application for registration of each originator or prospective  
 453 originator of the applicant at such location; and (9)] such other  
 454 information pertaining to the applicant, the applicant's background,  
 455 the background of its principals and employees, and the applicant's  
 456 activities as the commissioner may require. The commissioner may  
 457 conduct a criminal history records check of the applicant, of each  
 458 member, partner, officer or director of the applicant and of the person  
 459 with supervisory authority at the location for which the license is  
 460 sought, and require the applicant to submit the fingerprints of such  
 461 persons as part of the application. The application shall be filed with  
 462 the national mortgage licensing system, which shall process the  
 463 fingerprints through the Federal Bureau of Investigation.

464 (c) An application for [registration of] an originator license or  
 465 renewal of such [registration] license shall be made on a form provided  
 466 by the commissioner. The commissioner may conduct a criminal  
 467 history records check of the applicant and require the applicant to  
 468 submit fingerprints as part of the application. The application shall be  
 469 filed with the national mortgage licensing system, which shall process  
 470 the fingerprints through the Federal Bureau of Investigation.

471 [(d) It shall be considered a violation of section 36a-53a if a licensee



472 files an application for registration of an originator with knowledge  
473 that such application contains a material misstatement by an  
474 originator.]

475 Sec. 7. Section 36a-489 of the general statutes is repealed and the  
476 following is substituted in lieu thereof (*Effective September 30, 2008*):

477 (a) If the commissioner finds, upon the filing of an application for a  
478 mortgage lender or first mortgage broker license, that the applicant  
479 meets the requirements of subsection (a) of section 36a-488, as  
480 amended by this act, and that the financial responsibility, character,  
481 reputation, integrity and general fitness of the applicant and of the  
482 partners thereof if the applicant is a partnership, of the members if the  
483 applicant is a limited liability company or association, and of the  
484 officers, directors and principal employees if the applicant is a  
485 corporation, are such as to warrant belief that the business will be  
486 operated soundly and efficiently, in the public interest and consistent  
487 with the purposes of sections 36a-485 to 36a-498a, inclusive, as  
488 amended by this act, the commissioner may thereupon issue the  
489 applicant the license. If the commissioner fails to make such findings,  
490 or if the commissioner finds that the applicant has made a material  
491 misstatement in such application, [or in the application for registration  
492 of an originator, or files an application for registration of an originator  
493 with knowledge that such application contains a material  
494 misstatement by an originator,] the commissioner shall not issue a  
495 license, and shall notify the applicant of the denial and the reasons for  
496 such denial. Any denial of an application by the commissioner shall,  
497 when applicable, be subject to the provisions of section 46a-80.

498 (b) Upon the filing of an application for [registration] an originator  
499 license, the commissioner shall [register] license the originator named  
500 in the application unless the commissioner finds that such [originator  
501 or the] applicant has made a material misstatement in the application  
502 or that the financial responsibility, character, reputation, integrity and  
503 general fitness of such originator are not such as to warrant belief that  
504 granting such [registration] license would be in the public interest and

505 consistent with the purposes of sections 36a-485 to 36a-498a, inclusive,  
 506 as amended by this act. If the commissioner denies [registration] an  
 507 application for an originator license, the commissioner shall notify  
 508 such [originator and the] applicant [filing the application] of the denial  
 509 and the reasons for such denial. Any denial of an application by the  
 510 commissioner shall, when applicable, be subject to the provisions of  
 511 section 46a-80. A [registration] license shall remain in force and effect  
 512 until it has been surrendered, revoked, suspended or expires in  
 513 accordance with the provisions of sections 36a-485 to 36a-498a,  
 514 inclusive,as amended by this act.

515 Sec. 8. Section 36a-490 of the general statutes is repealed and the  
 516 following is substituted in lieu thereof (*Effective September 30, 2008*):

517 (a) Each mortgage lender and first mortgage broker license shall  
 518 state the location at which the business is to be conducted and shall  
 519 state fully the name of the licensee. If the licensee desires to make first  
 520 mortgage loans in more than one location or to act as a first mortgage  
 521 broker in more than one location, the licensee shall procure a license  
 522 for each location where the business is to be conducted. Each license  
 523 shall be maintained at the location for which the license was issued  
 524 and shall be available for public inspection. Such license shall not be  
 525 transferable or assignable. Any change of location of a licensee shall  
 526 require only prior written notice to the commissioner. No licensee shall  
 527 use any name other than the name stated on the license issued by the  
 528 commissioner.

529 (b) The licensee shall promptly notify the commissioner, in writing,  
 530 of any change in the information provided in the application for  
 531 license or most recent renewal of such license.

532 (c) Each license shall remain in force and effect until it has been  
 533 surrendered, revoked, suspended or expires in accordance with the  
 534 provisions of sections 36a-485 to 36a-498a, inclusive,as amended by  
 535 this act.

536 Sec. 9. Section 36a-491 of the general statutes is repealed and the

537 following is substituted in lieu thereof (*Effective September 30, 2008*):

538 (a) (1) Each applicant for a first mortgage lender license, [or] a first  
 539 mortgage correspondent lender license or a first mortgage broker  
 540 license shall, at the time of making such application, pay to the  
 541 [commissioner a license fee of eight hundred dollars, provided if such  
 542 application is filed not earlier than one year before the date such  
 543 license will expire, the applicant shall pay to the commissioner a  
 544 license fee of four hundred dollars. Each applicant for a first mortgage  
 545 broker license shall, at the time of making such application, pay to the  
 546 commissioner a license fee of four hundred dollars, provided if such  
 547 application is filed not earlier than one year before the date such  
 548 license will expire, the applicant shall pay to the commissioner a  
 549 license fee of two hundred dollars] national mortgage licensing system  
 550 the required license fee and processing fee for an initial or renewal  
 551 application. Each license issued pursuant to section 36a-489, as  
 552 amended by this act, shall expire at the close of business on [September  
 553 thirtieth of the even-numbered] December thirty-first of the year  
 554 following its issuance unless such license is renewed. [Such licensee  
 555 shall, on or before September first of the year in which the license  
 556 expires, pay to the commissioner the appropriate license fee as  
 557 provided in this section for the succeeding two years, commencing  
 558 October first, together with such renewal application as the  
 559 commissioner may require. Any renewal application filed with the  
 560 commissioner after September first shall be accompanied by a one-  
 561 hundred-dollar late fee and any such filing shall be deemed to be  
 562 timely and sufficient for purposes of subsection (b) of section 4-182.  
 563 Whenever an application for a license, other than a renewal  
 564 application, is filed under sections 36a-485 to 36a-498a, inclusive, by  
 565 any person who was a licensee under said sections and whose license  
 566 expired less than sixty days prior to the date such application was  
 567 filed, such application shall be accompanied by a one-hundred-dollar  
 568 processing fee in addition to the application fee.]

569 (2) [A licensee filing an application for registration of] Each  
 570 applicant for an originator license shall, at the time of making such

571 application, pay to the [commissioner a registration fee of one hundred  
572 dollars for each such originator] national mortgage licensing system  
573 the required license fee and processing fee for an initial or renewal  
574 application. Each [registration] such license shall expire at [such time  
575 as the licensee's license expires] the close of business on December  
576 thirty-first of the year following its issuance unless such [registration]  
577 license is renewed. [Such licensee shall file an application for renewal  
578 of the registration and pay to the commissioner the appropriate  
579 registration fee as provided in this subsection for the succeeding two  
580 years, commencing October first.]

581 [(3) (A) If the commissioner determines that a check filed with the  
582 commissioner to pay a license fee under subdivision (1) of this  
583 subsection has been dishonored, the commissioner shall automatically  
584 suspend the license or a renewal license that has been issued but is not  
585 yet effective. The commissioner shall give the licensee notice of the  
586 automatic suspension pending proceedings for revocation or refusal to  
587 renew and an opportunity for a hearing on such actions in accordance  
588 with section 36a-51.

589 (B) If the commissioner determines that a check filed with the  
590 commissioner to pay a registration fee has been dishonored, the  
591 commissioner shall automatically suspend the registration or a  
592 registration that has been issued but is not yet effective. The  
593 commissioner shall give the originator notice of the automatic  
594 suspension and the licensee notice of the automatic suspension  
595 pending proceedings for revocation or refusal to renew and an  
596 opportunity for a hearing on such actions in accordance with section  
597 36a-51.]

598 (b) No abatement of the license [or registration] fee shall be made if  
599 the license [or registration] is surrendered, revoked or suspended prior  
600 to the expiration of the period for which it was issued. All fees  
601 required by this section shall be nonrefundable.

602 Sec. 10. Subsection (a) of section 36a-492 of the general statutes is

603 repealed and the following is substituted in lieu thereof (*Effective*  
604 *September 30, 2008*):

605 (a) No [such] mortgage lender or first mortgage broker license, and  
606 no renewal thereof, shall be granted unless the applicant has filed a  
607 bond with the commissioner written by a surety authorized to write  
608 such bonds in this state, in the sum of forty thousand dollars, the form  
609 of which shall be approved by the Attorney General. Such bond shall  
610 be conditioned upon such licensee faithfully performing any and all  
611 written agreements or commitments with or for the benefit of  
612 borrowers and prospective borrowers, truly and faithfully accounting  
613 for all funds received from a borrower or prospective borrower by the  
614 licensee in the licensee's capacity as a mortgage lender or a first  
615 mortgage broker, and conducting such mortgage business consistent  
616 with the provisions of sections 36a-485 to 36a-498a, inclusive, as  
617 amended by this act. Any borrower or prospective borrower who may  
618 be damaged by failure to perform any written agreements or  
619 commitments, or by the wrongful conversion of funds paid by a  
620 borrower or prospective borrower to a licensee, may proceed on such  
621 bond against the principal or surety thereon, or both, to recover  
622 damages. The commissioner may proceed on such bond against the  
623 principal or surety thereon, or both, to collect any civil penalty  
624 imposed upon the licensee pursuant to subsection (a) of section 36a-50.  
625 The proceeds of the bond, even if commingled with other assets of the  
626 licensee, shall be deemed by operation of law to be held in trust for the  
627 benefit of such claimants against the licensee in the event of  
628 bankruptcy of the licensee and shall be immune from attachment by  
629 creditors and judgment creditors. The bond shall run concurrently  
630 with the period of the license granted to the applicant, and the  
631 aggregate liability under the bond shall not exceed the penal sum of  
632 the bond.

633 Sec. 11. Subsection (a) of section 36a-493 of the general statutes is  
634 repealed and the following is substituted in lieu thereof (*Effective*  
635 *September 30, 2008*):

636 (a) Each mortgage lender and first mortgage broker licensee shall  
 637 maintain adequate records of each loan transaction at the location  
 638 named in the license, or shall make such records available at such  
 639 location not later than five business days after requested by the  
 640 commissioner to do so. Such records shall provide the following  
 641 information: (1) A copy of any disclosures required under part III of  
 642 chapter 669; (2) whether the licensee acted as a mortgage lender, a first  
 643 mortgage broker or both; (3) if the licensee is acting as a mortgage  
 644 lender, and retains the first mortgage loan or receives payments  
 645 thereon, an adequate loan history for those loans retained or upon  
 646 which payments are received, itemizing the amount and date of each  
 647 payment and the unpaid balance at all times; (4) the purpose for which  
 648 the loan was made; (5) the original or an exact copy of the note and  
 649 mortgage deed; (6) a statement signed by the borrowers  
 650 acknowledging the receipt of such statement which discloses the full  
 651 amount of any fee, commission or consideration paid to the first  
 652 mortgage broker for all services in connection with the mortgage loan;  
 653 and (7) the name and address of the broker, if any, involved in the loan  
 654 transaction.

655 Sec. 12. Section 36a-494 of the general statutes is repealed and the  
 656 following is substituted in lieu thereof (*Effective September 30, 2008*):

657 (a) (1) The commissioner may suspend, revoke or refuse to renew  
 658 any mortgage lender or first mortgage broker license, in accordance  
 659 with the provisions of section 36a-51, for any reason which would be  
 660 sufficient grounds for the commissioner to deny an application for [a]  
 661 such license under sections 36a-485 to 36a-498a, inclusive, as amended  
 662 by this act, or if the commissioner finds that the licensee or any  
 663 proprietor, director, officer, member, partner, shareholder, trustee,  
 664 employee or agent of such licensee has done any of the following: (A)  
 665 Made any material misstatement in the application; (B) committed any  
 666 fraud, misappropriated funds or misrepresented, concealed,  
 667 suppressed, intentionally omitted or otherwise intentionally failed to  
 668 disclose any of the material particulars of any first mortgage loan  
 669 transaction, including disclosures required by subdivision (6) of

670 subsection (a) of section 36a-493, as amended by this act, or part III of  
 671 chapter 669 or regulations adopted pursuant thereto, to anyone  
 672 entitled to such information; (C) violated any of the provisions of this  
 673 title or of any regulations adopted pursuant thereto, or any other law  
 674 or regulation applicable to the conduct of its business; or (D) failed to  
 675 perform any agreement with a licensee or a borrower.

676 (2) The commissioner may suspend, revoke or refuse to renew any  
 677 [registration of an] originator license, in accordance with the  
 678 provisions of section 36a-51, for any reason which would be sufficient  
 679 grounds for the commissioner to deny an application for [a  
 680 registration] such license under sections 36a-485 to 36a-498a, inclusive,  
 681 as amended by this act, or if the commissioner finds that the  
 682 [registrant] licensee has committed any fraud, misappropriated funds,  
 683 misrepresented any of the material particulars of any first mortgage  
 684 loan transaction or has violated any of the provisions of this title or of  
 685 any regulations adopted pursuant to such title or any other law or  
 686 regulation applicable to the conduct of such [registrant's] licensee's  
 687 business.

688 (b) Whenever it appears to the commissioner that any person has  
 689 violated, is violating or is about to violate any of the provisions of  
 690 sections 36a-485 to 36a-498a, inclusive, as amended by this act, or any  
 691 regulation adopted pursuant thereto, or any licensee [or registrant] has  
 692 failed to perform any agreement with a borrower, committed any  
 693 fraud, misappropriated funds or misrepresented, concealed,  
 694 suppressed, intentionally omitted or otherwise intentionally failed to  
 695 disclose any of the material particulars of any mortgage loan  
 696 transaction, including disclosures required by subdivision (6) of  
 697 subsection (a) of section 36a-493, as amended by this act, or part III of  
 698 chapter 669 or regulations adopted pursuant thereto, to anyone  
 699 entitled to such information, the commissioner may take action against  
 700 such person [,] or licensee [or registrant] in accordance with sections  
 701 36a-50 and 36a-52.

702 Sec. 13. Section 36a-496 of the general statutes is repealed and the

703 following is substituted in lieu thereof (*Effective September 30, 2008*):

704 No person engaged in the business of making first mortgage loans  
 705 in this state, whether licensed in accordance with the provisions of  
 706 sections 36a-485 to 36a-498a, inclusive, as amended by this act, or  
 707 exempt from licensing, shall accept applications or referral of  
 708 applicants from, or pay a fee to, any first mortgage broker or originator  
 709 who is required to be licensed [or registered] under said sections but is  
 710 not licensed [or registered] to act as such by the commissioner, if the  
 711 mortgage lender has actual knowledge that the first mortgage broker  
 712 or originator is not licensed [or registered] by the commissioner.

713 Sec. 14. Section 36a-498 of the general statutes is repealed and the  
 714 following is substituted in lieu thereof (*Effective September 30, 2008*):

715 (a) Except as provided in subsection (c) of this section, every  
 716 advance fee paid or given, directly or indirectly, to a mortgage lender  
 717 or first mortgage broker required to be licensed pursuant to sections  
 718 36a-485 to 36a-498a, inclusive, as amended by this act, shall be  
 719 refundable.

720 (b) No originator required to be [registered] licensed pursuant to  
 721 sections 36a-485 to 36a-498a, inclusive, as amended by this act, shall  
 722 accept payment of any advance fee except an advance fee on behalf of  
 723 a mortgage lender or first mortgage broker licensee. Nothing in this  
 724 subsection shall be construed as prohibiting the mortgage lender or  
 725 first mortgage broker licensee from paying an originator all or part of  
 726 an advance fee, provided such advance fee paid is not refundable  
 727 under this section.

728 (c) Subsection (a) of this section shall not apply if: (1) The person  
 729 providing the advance fee and the mortgage lender or first mortgage  
 730 broker agree in writing that the advance fee shall not be refundable, in  
 731 whole or in part; and (2) the written agreement complies in all respects  
 732 with the provisions of subsection (d) of this section.

733 (d) An agreement under subsection (c) of this section shall meet all



734 of the following requirements to be valid and enforceable: (1) The  
 735 agreement shall be dated, signed by both parties, and be executed  
 736 prior to the payment of any advance fee; (2) the agreement shall  
 737 expressly state the total advance fee required to be paid and any  
 738 amount of the advance fee that shall not be refundable; (3) the  
 739 agreement shall clearly and conspicuously state any conditions under  
 740 which the advance fee will be retained by the licensee; (4) the term  
 741 "nonrefundable" shall be used to describe each advance fee or portion  
 742 thereof to which the term is applicable, and shall appear in boldface  
 743 type in the agreement each time it is used; and (5) the form of the  
 744 agreement shall (A) be separate from any other forms, contracts, or  
 745 applications utilized by the licensee, (B) contain a heading in a size  
 746 equal to at least ten-point boldface type that shall title the form  
 747 "AGREEMENT CONCERNING NONREFUNDABILITY OF  
 748 ADVANCE FEE", (C) provide for a duplicate copy which shall be  
 749 given to the person paying the advance fee at the time of payment of  
 750 the advance fee, and (D) include such other specifications as the  
 751 commissioner may by regulation prescribe.

752 (e) An agreement under subsection (c) of this section that does not  
 753 meet the requirements of subsection (d) of this section shall be  
 754 voidable at the election of the person paying the advance fee.

755 (f) (1) No mortgage lender or first mortgage broker required to be  
 756 licensed pursuant to sections 36a-485 to 36a-498a, inclusive, as  
 757 amended by this act, shall enter into an agreement with or otherwise  
 758 require any person to pay the mortgage lender or first mortgage broker  
 759 for any fee, commission or other valuable consideration lost as a result  
 760 of such person failing to consummate a first mortgage loan, provided  
 761 the mortgage lender or first mortgage broker may collect such fee,  
 762 commission or consideration as an advance fee subject to the  
 763 requirements of this section.

764 (2) No first mortgage broker required to be licensed pursuant to  
 765 sections 36a-485 to 36a-498a, inclusive, as amended by this act, shall  
 766 enter into an agreement with or otherwise require any person to pay

767 the first mortgage broker any fee, commission or other valuable  
768 consideration for the prepayment of the principal of a first mortgage  
769 loan by such person before the date on which the principal is due.

770 Sec. 15. Section 36a-498a of the general statutes is repealed and the  
771 following is substituted in lieu thereof (*Effective September 30, 2008*):

772 No mortgage lender or first mortgage broker licensee under section  
773 36a-489, as amended by this act, and no person exempt from licensure  
774 under subdivisions (1), (2), (5) and (6) of section 36a-487 making a first  
775 mortgage loan shall charge, impose or cause to be paid, directly or  
776 indirectly, prepaid finance charges that exceed in the aggregate, the  
777 greater of five per cent of the principal amount of the loan or two  
778 thousand dollars. If the proceeds of the loan are used to refinance an  
779 existing loan, the aggregate of the prepaid finance charges for the  
780 current refinancing and any previous financings by such licensee or  
781 exempt person or affiliate of such licensee or exempt person within  
782 two years of the current refinancing shall not exceed the greater of five  
783 per cent of the principal amount of the initial loan or two thousand  
784 dollars. The provisions of this section shall not prohibit such licensee  
785 or exempt person from charging, imposing or causing to be paid,  
786 directly or indirectly, prepaid finance charges in addition to those  
787 permitted by this section in connection with any additional proceeds  
788 received by the borrower in the refinancing, provided such prepaid  
789 finance charges on the additional proceeds shall not exceed five per  
790 cent of the additional proceeds. For purposes of this section,  
791 "additional proceeds" has the meaning given to that term in  
792 subdivision (3) of section 36a-746e and "prepaid finance charge" has  
793 the meaning given to that term in subdivision (7) of section 36a-746a.

794 Sec. 16. Section 36a-510 of the general statutes is repealed and the  
795 following is substituted in lieu thereof (*Effective September 30, 2008*):

796 As used in sections 36a-510 to 36a-524, inclusive, as amended by this  
797 act, unless the context otherwise requires:

798 (1) "Advance fee" means any consideration paid or given, directly or

799 indirectly, to a mortgage lender, secondary mortgage broker or  
800 originator required to be licensed [or registered] pursuant to sections  
801 36a-510 to 36a-524, inclusive, as amended by this act, prior to the  
802 closing of a secondary mortgage loan to any person, including, but not  
803 limited to, loan fees, points, broker's fees or commissions, transaction  
804 fees, or similar prepaid finance charges;

805 (2) "Advertise" or "advertisement" means the use of media, mail,  
806 computer, telephone, personal contact or any other means to offer the  
807 opportunity for a secondary mortgage loan;

808 (3) "Licensee" means any person who is required to be licensed  
809 pursuant to section 36a-511, as amended by this act;

810 (4) "Mortgage lender" means a secondary mortgage lender or a  
811 secondary mortgage correspondent lender, or both;

812 (5) "Originator" means an individual who is employed or retained  
813 by a mortgage lender or secondary mortgage broker that is required to  
814 be licensed under sections 36a-510 to 36a-524, inclusive, as amended  
815 by this act, for, or with the expectation of, a fee, commission or other  
816 valuable consideration, to negotiate, solicit, arrange or find a  
817 secondary mortgage loan. "Originator" does not include an officer, if  
818 the mortgage lender or secondary mortgage broker licensee is a  
819 corporation; a general partner, if the licensee is a partnership; a  
820 member, if the licensee is a limited liability company; or a sole  
821 proprietor, if the licensee is a sole proprietorship;

822 (6) "Principal amount of the loan" means the gross loan amount the  
823 borrower is obligated to repay including any prepaid finance charge  
824 and other charges which are financed. The provisions of this  
825 subdivision apply to all loans negotiated before, on and after June 14,  
826 1993;

827 (7) "Secondary mortgage broker" means a person who, for a fee,  
828 commission or other valuable consideration, directly or indirectly,  
829 negotiates, solicits, arranges, places or finds a secondary mortgage loan

830 that is to be made by a mortgage lender, whether or not the mortgage  
831 lender is required to be licensed under sections 36a-510 to 36a-524,  
832 inclusive, as amended by this act;

833 (8) "Secondary mortgage correspondent lender" means a person  
834 engaged in the business of making secondary mortgage loans in such  
835 person's own name where the loans are not held by such person for  
836 more than ninety days and are funded by another person through a  
837 warehouse agreement, table funding agreement or similar agreement;

838 (9) "Secondary mortgage lender" means a person engaged in the  
839 business of making secondary mortgage loans: (A) In such person's  
840 own name utilizing such person's own funds, or (B) by funding loans  
841 through a table funding agreement;

842 (10) "Secondary mortgage loan" means (A) a loan or an extension of  
843 credit, including, but not limited to, an extension of credit pursuant to  
844 a contract or an assigned contract for the sale of goods or services,  
845 made to a person, the proceeds of which are to be used primarily for  
846 personal, family or household purposes, and which is secured in  
847 whole or in part by a mortgage upon any interest in one-to-four-family  
848 residential owner-occupied real property located in this state,  
849 provided such real property is subject to one or more prior mortgages,  
850 and (B) the renewal or refinancing of any existing loan or extension of  
851 credit described in subparagraph (A) of this subdivision;

852 (11) "Simulated check" means a document that imitates or resembles  
853 a check but is not a negotiable instrument;

854 (12) "Table funding agreement" has the meaning given to that term  
855 in subdivision (11) of section 36a-485; and

856 (13) "Warehouse agreement" has the meaning given to that term in  
857 subdivision (12) of section 36a-485.

858 Sec. 17. Section 36a-511 of the general statutes is repealed and the  
859 following is substituted in lieu thereof (*Effective September 30, 2008*):

860 (a) No person shall engage in the business of making secondary  
861 mortgage loans or act as a secondary mortgage broker unless such  
862 person has first obtained the required license under sections 36a-510 to  
863 36a-524, inclusive, as amended by this act. A person shall be deemed to  
864 be engaged in the business of making secondary mortgage loans if  
865 such person advertises, causes to be advertised, solicits, offers to make  
866 or makes secondary mortgage loans, either directly or indirectly. A  
867 secondary mortgage correspondent lender shall not be deemed to be  
868 acting as a secondary mortgage lender if such secondary mortgage  
869 correspondent lender makes a loan utilizing its own funds in a  
870 situation where another person does not honor such person's  
871 commitment to fund the loan.

872 (b) No [licensee] person licensed as a mortgage lender or secondary  
873 mortgage broker shall employ or retain an originator [without first  
874 registering] unless such originator is licensed under sections 36a-510 to  
875 36a-524, inclusive, as amended by this act, provided such [registration]  
876 license shall not be required for any originator who is [registered by  
877 such licensee] licensed under sections 36a-485 to 36a-498a, inclusive, as  
878 amended by this act. No individual may act as an originator without  
879 being [registered] licensed, or act as an originator, as defined in  
880 sections 36a-485 and 36a-510, as amended by this act, for more than  
881 one person. The [registration] license of an originator is not effective  
882 during any period when such originator is not associated with a  
883 [licensee] licensed mortgage lender or secondary mortgage broker.  
884 Both the originator and the [licensee] mortgage lender and secondary  
885 mortgage broker shall promptly notify the commissioner, in writing, of  
886 the termination of employment or services of an originator.

887 (c) Each secondary mortgage loan negotiated, solicited, placed,  
888 found or made without a license shall constitute a separate violation  
889 for purposes of section 36a-50.

890 Sec. 18. Section 36a-513 of the general statutes is repealed and the  
891 following is substituted in lieu thereof (*Effective September 30, 2008*):

892 (a) (1) The commissioner shall not issue a license as a secondary  
 893 mortgage lender, a secondary mortgage correspondent lender or a  
 894 secondary mortgage broker to any person unless such person meets  
 895 the following tangible net worth and experience requirements, as  
 896 applicable: (A) The minimum tangible net worth requirement for a  
 897 secondary mortgage lender shall be one hundred thousand dollars and  
 898 the minimum tangible net worth requirement for a secondary  
 899 mortgage correspondent lender and a secondary mortgage broker shall  
 900 be twenty-five thousand dollars, and (B) a mortgage lender shall have  
 901 at the location for which the license is sought, a person with  
 902 supervisory authority over the lending activities who has had at least  
 903 three years' experience in the mortgage lending business within the  
 904 five years immediately preceding the application for the license, and a  
 905 secondary mortgage broker shall have, at the location for which the  
 906 license is sought, a person with supervisory authority over the  
 907 brokerage activities who has at least three years' experience in the  
 908 mortgage lending or mortgage brokerage business within the five  
 909 years immediately preceding the application for the license. [,  
 910 provided such experience requirements shall not apply to any person  
 911 whose license is renewed effective July 1, 2003.]

912 (2) Each licensee shall maintain the net worth required by this  
 913 subsection and shall promptly notify the commissioner if such  
 914 licensee's net worth falls below the net worth required by this  
 915 subsection.

916 (b) The commissioner may issue a secondary mortgage lender  
 917 license, a secondary mortgage correspondent lender license or a  
 918 secondary mortgage broker license. Each secondary mortgage lender  
 919 licensee may also act as a secondary mortgage correspondent lender  
 920 and a secondary mortgage broker, and each secondary mortgage  
 921 correspondent lender licensee may also act as a secondary mortgage  
 922 broker. Any application for a license or renewal of such license shall be  
 923 under oath and on a form provided by the commissioner. The  
 924 application shall include: (1) The type of license sought; (2) the name  
 925 and address of the applicant; (3) the location for which the license is

926 sought; (4) the name and address of each member, partner, officer,  
 927 director, authorized agent and shareholder owning ten per cent or  
 928 more of the outstanding stock, as applicable; (5) if the applicant is a  
 929 trust or the lead lender in one or more participation loans, the name  
 930 and address of each trustee or lead lender and each beneficiary of the  
 931 trust or other participant lenders in all outstanding participation loans;  
 932 (6) a financial statement as of a date not more than six months prior to  
 933 the filing of the application which reflects tangible net worth, and if  
 934 such financial statement is unaudited, the proprietor, general partner,  
 935 or duly authorized officer, trustee or member shall swear to its  
 936 accuracy under oath before a notary public; (7) evidence that the  
 937 person with supervisory authority over the lending or brokerage  
 938 activities at the location for which the license is sought meets the  
 939 experience required by subsection (a) of this section; and (8) [an  
 940 application for registration of each originator or prospective originator  
 941 of the applicant at such location; and (9)] such other information  
 942 pertaining to the applicant, the applicant's background, the  
 943 background of its principals and employees and the applicant's  
 944 activities as the commissioner may require. The commissioner may  
 945 conduct a criminal history records check of the applicant, of each  
 946 member, partner, officer or director of the applicant and of the person  
 947 with supervisory authority at the location for which the license is  
 948 sought, and require the applicant to submit the fingerprints of such  
 949 persons as part of the application. The application shall be filed with  
 950 the national mortgage licensing system, which shall process the  
 951 fingerprints through the Federal Bureau of Investigation.

952 (c) If the commissioner finds, upon the filing of an application for a  
 953 mortgage lender or secondary mortgage broker license, that the  
 954 applicant meets the requirements of subsection (a) of this section, and  
 955 that the financial responsibility, character, reputation, integrity and  
 956 general fitness of the applicant and of the partners thereof if the  
 957 applicant is a partnership, of the members if the applicant is a limited  
 958 liability company or association, and of the officers, directors and  
 959 principal employees if the applicant is a corporation, are such as to

960 warrant belief that the business will be operated soundly and  
 961 efficiently, in the public interest and consistent with the purposes of  
 962 sections 36a-510 to 36a-524, inclusive, as amended by this act, the  
 963 commissioner may thereupon issue the applicant the license. If the  
 964 commissioner fails to make such findings, or if the commissioner finds  
 965 that the applicant made any material misstatement in such application,  
 966 [or in the application for registration of an originator, or files an  
 967 application for registration of an originator with knowledge that such  
 968 application contains a material misstatement by an originator,] the  
 969 commissioner shall not issue a license, and shall notify the applicant of  
 970 the denial and the reasons for such denial. Any denial of an  
 971 application by the commissioner shall, when applicable, be subject to  
 972 the provisions of section 46a-80.

973 (d) An application for [registration] an originator license or renewal  
 974 of such [registration] license shall be made on a form provided by the  
 975 commissioner. The commissioner may conduct a criminal history  
 976 records check of the applicant and require the applicant to submit  
 977 fingerprints as part of the application. The application shall be filed  
 978 with the national mortgage licensing system, which shall process the  
 979 fingerprints through the Federal Bureau of Investigation.

980 (e) Upon the filing of an application for [registration] an originator  
 981 license, the commissioner shall [register] license the originator named  
 982 in the application unless the commissioner finds that such [originator  
 983 or the] applicant has made any material misstatement in the  
 984 application or that the financial responsibility, character, reputation,  
 985 integrity and general fitness of such originator, are not such as to  
 986 warrant belief that granting such [registration] license would be in the  
 987 public interest and consistent with the purposes of sections 36a-510 to  
 988 36a-524, inclusive, as amended by this act. If the commissioner denies  
 989 [registration] an application for an originator license, the commissioner  
 990 shall notify such [originator and the] applicant [filing the application]  
 991 of the denial and the reasons for such denial. Any denial of an  
 992 application by the commissioner shall, when applicable, be subject to  
 993 the provisions of section 46a-80. Each license shall remain in force and



994 effect until it has been surrendered, revoked or suspended or expires  
 995 in accordance with the provisions of sections 36a-510 to 36a-524,  
 996 inclusive, as amended by this act.

997 [(f) It shall be considered a violation of section 36a-53a if a licensee  
 998 files an application for registration of an originator with knowledge  
 999 that such application contains a material misstatement by an  
 1000 originator.]

1001 Sec. 19. Section 36a-514 of the general statutes is repealed and the  
 1002 following is substituted in lieu thereof (*Effective September 30, 2008*):

1003 (a) (1) Each applicant for a secondary mortgage lender license, [or] a  
 1004 secondary mortgage correspondent lender license or a secondary  
 1005 mortgage broker license, at the time of making such application, shall  
 1006 pay to the [commissioner a license fee of eight hundred dollars,  
 1007 provided if such application is filed not earlier than one year before the  
 1008 date such license will expire, the applicant shall pay to the  
 1009 commissioner a license fee of four hundred dollars, and if such  
 1010 application is for renewal of a license that expires on June 30, 2003, the  
 1011 applicant shall pay to the commissioner a license fee of five hundred  
 1012 dollars. Each applicant for a secondary mortgage broker license, at the  
 1013 time of making such application, shall pay to the commissioner a  
 1014 license fee of four hundred dollars, provided if such application is filed  
 1015 not earlier than one year before the date such license will expire, the  
 1016 applicant shall pay to the commissioner a license fee of two hundred  
 1017 dollars, and if such application is for renewal of a license that expires  
 1018 on June 30, 2003, the applicant shall pay to the commissioner a license  
 1019 fee of two hundred fifty dollars] national mortgage licensing system  
 1020 the required license fee and processing fee for an initial or renewal  
 1021 application. Each license issued pursuant to this section shall expire at  
 1022 the close of business on [September thirtieth of the even-numbered]  
 1023 December thirty-first of the year following its issuance unless such  
 1024 license is renewed. [Each licensee shall, on or before September first of  
 1025 the year in which the license expires, or in the case of a license that  
 1026 expires on June 30, 2003, on or before June 1, 2003, file a renewal

1027 application and pay to the commissioner the appropriate license fee as  
 1028 provided in this section to renew the license. Any renewal application  
 1029 filed with the commissioner after September first, or in the case of a  
 1030 license that expires on June 30, 2003, after June 1, 2003, shall be  
 1031 accompanied by a one-hundred-dollar late fee and any such filing shall  
 1032 be deemed to be timely and sufficient for purposes of subsection (b) of  
 1033 section 4-182. (2) Whenever an application for a license, other than a  
 1034 renewal application, is filed under this section by any person who was  
 1035 a licensee and whose license expired less than sixty days prior to the  
 1036 date such application was filed, such application shall be accompanied  
 1037 by a one-hundred-dollar processing fee in addition to the application  
 1038 fee.]

1039 (b) [A licensee filing an application for registration of] Each  
 1040 applicant for an originator license shall, at the time of making such  
 1041 application, pay to the [commissioner a registration fee of one hundred  
 1042 dollars for each such originator] national mortgage licensing system  
 1043 the required license fee and processing fee for an initial or renewal  
 1044 application. Each [registration] such license shall expire at [such time  
 1045 as the licensee's license expires] the close of business on December  
 1046 thirty-first of the year following its issuance unless such [registration]  
 1047 license is renewed. [Such licensee shall file an application for renewal  
 1048 of the registration and pay to the commissioner the appropriate  
 1049 registration fee as provided in this subsection for the succeeding two  
 1050 years, commencing October first.]

1051 [(c) (1) If the commissioner determines that a check filed with the  
 1052 commissioner to pay a fee under subsection (a) of this section has been  
 1053 dishonored, the commissioner shall automatically suspend the license  
 1054 or a renewal license that has been issued but is not yet effective. The  
 1055 commissioner shall give the licensee notice of the automatic  
 1056 suspension pending proceedings for revocation or refusal to renew  
 1057 and an opportunity for a hearing on such actions in accordance with  
 1058 section 36a-51.

1059 (2) If the commissioner determines that a check filed with the

1060 commissioner to pay a registration fee has been dishonored, the  
1061 commissioner shall automatically suspend the registration or a  
1062 registration that has been issued but is not yet effective. The  
1063 commissioner shall give the originator notice of the automatic  
1064 suspension and the licensee notice of the automatic suspension  
1065 pending proceedings for revocation or refusal to renew and an  
1066 opportunity for a hearing on such actions in accordance with section  
1067 36a-51.]

1068 [(d)] (c) No abatement of the license [or registration] fee shall be  
1069 made if the license [or registration] is surrendered, revoked or  
1070 suspended prior to the expiration of the period for which it was issued.  
1071 All fees required by this section shall be nonrefundable.

1072 Sec. 20. Section 36a-515 of the general statutes is repealed and the  
1073 following is substituted in lieu thereof (*Effective September 30, 2008*):

1074 (a) Each mortgage lender and secondary mortgage broker license  
1075 shall state the location at which the business is to be conducted and  
1076 shall state fully the name of the licensee. If the licensee desires to make  
1077 secondary mortgage loans in more than one location or to act as a  
1078 mortgage broker in more than one location, the licensee shall procure a  
1079 license for each location where the business is to be conducted. Each  
1080 license shall be maintained at the location for which the license was  
1081 issued and shall be available for public inspection. Such license shall  
1082 not be transferable or assignable. Any change of location of a licensee  
1083 shall require only prior written notice to the commissioner. No licensee  
1084 shall use any name other than the name stated on the license issued by  
1085 the commissioner.

1086 (b) The licensee shall promptly notify the commissioner, in writing,  
1087 of any change in the information provided in the application for  
1088 license or most recent renewal of such license.

1089 (c) Each license [and registration] shall remain in force and effect  
1090 until it has been surrendered, revoked, suspended or expires in  
1091 accordance with the provisions of sections 36a-510 to 36a-524,

1092 inclusive, as amended by this act.

1093 Sec. 21. Subsection (a) of section 36a-516 of the general statutes is  
1094 repealed and the following is substituted in lieu thereof (*Effective*  
1095 *September 30, 2008*):

1096 (a) Each mortgage lender and secondary mortgage broker licensee  
1097 shall maintain adequate records of each loan transaction at the place of  
1098 business named in the license or shall make such records available at  
1099 such place of business not later than five business days after requested  
1100 by the commissioner to do so. Such records shall provide the following  
1101 information: (1) A copy of any disclosures required under part III of  
1102 chapter 669; (2) whether the licensee acted as mortgage lender,  
1103 secondary mortgage broker, or both; (3) in the case of a licensee acting  
1104 as a mortgage lender, an adequate loan history, itemizing the amount  
1105 and date of each payment and the unpaid balance at all times; (4) the  
1106 purpose for which the loan was made; (5) the original or an exact copy  
1107 of the note, contract or other evidence of indebtedness and the  
1108 mortgage deed; and (6) the name and address of the mortgage broker,  
1109 if any, involved in the loan transaction.

1110 Sec. 22. Section 36a-517 of the general statutes is repealed and the  
1111 following is substituted in lieu thereof (*Effective September 30, 2008*):

1112 (a) (1) The commissioner may suspend, revoke or refuse to renew  
1113 any mortgage lender or secondary mortgage broker license, in  
1114 accordance with section 36a-51, for any reason which would be  
1115 sufficient grounds for the commissioner to deny an application for [a]  
1116 such license under sections 36a-510 to 36a-524, inclusive, as amended  
1117 by this act, or if the commissioner finds that the licensee or any  
1118 proprietor, director, officer, member, partner, shareholder, trustee,  
1119 employee or agent of such licensee has done any of the following: (A)  
1120 Made any material misstatement in the application; (B) committed any  
1121 fraud, misappropriated funds or misrepresented, concealed,  
1122 suppressed, intentionally omitted or otherwise intentionally failed to  
1123 disclose any of the material particulars of any secondary mortgage

1124 loan transaction, including disclosures required by part III of chapter  
1125 669 or regulations adopted pursuant thereto, to anyone entitled to such  
1126 information; (C) violated any of the provisions of this title, or of any  
1127 regulations adopted pursuant thereto or any other law or regulation  
1128 applicable to the conduct of its business; or (D) failed to perform any  
1129 agreement with a licensee or a borrower.

1130 (2) The commissioner may suspend, revoke or refuse to renew any  
1131 [registration of an] originator license, in accordance with the  
1132 provisions of section 36a-51, for any reason which would be sufficient  
1133 grounds for the commissioner to deny an application for [a  
1134 registration] such license under sections 36a-510 to 36a-524, inclusive,  
1135 as amended by this act, or if the commissioner finds that the  
1136 [registrant] licensee has committed any fraud, misappropriated funds,  
1137 misrepresented any of the material particulars of any secondary  
1138 mortgage loan transaction or has violated any of the provisions of this  
1139 title or of any regulations adopted pursuant to such title or any other  
1140 law or regulation applicable to the conduct of such [registrant's]  
1141 licensee's business.

1142 (b) Whenever it appears to the commissioner that any person has  
1143 violated, is violating or is about to violate any of the provisions of  
1144 sections 36a-510 to 36a-524, inclusive, as amended by this act, or any  
1145 licensee [or registrant] has failed to perform any agreement with a  
1146 borrower, committed any fraud, misappropriated funds or  
1147 misrepresented, concealed, suppressed, intentionally omitted or  
1148 otherwise intentionally failed to disclose any of the material particulars  
1149 of any mortgage loan transaction, including disclosures required by  
1150 part III of chapter 669 or regulations adopted pursuant thereto, to  
1151 anyone entitled to such information, the commissioner may take action  
1152 against such person [,] or licensee [or registrant] in accordance with  
1153 sections 36a-50 and 36a-52.

1154 Sec. 23. Subsection (d) of section 36a-521 of the general statutes is  
1155 repealed and the following is substituted in lieu thereof (*Effective*  
1156 *September 30, 2008*):

1157 (d) No originator required to be [registered] licensed pursuant to  
 1158 sections 36a-510 to 36a-524, inclusive, as amended by this act, shall  
 1159 accept payment of any advance fee except an advance fee on behalf of  
 1160 a mortgage lender or secondary mortgage broker licensee. Nothing in  
 1161 this subsection shall be construed as prohibiting the mortgage lender  
 1162 or secondary mortgage broker licensee from paying an originator all or  
 1163 part of an advance fee, provided such advance fee paid is not  
 1164 refundable under this section.

1165 Sec. 24. Section 36a-523 of the general statutes is repealed and the  
 1166 following is substituted in lieu thereof (*Effective September 30, 2008*):

1167 No person engaged in the business of making secondary mortgage  
 1168 loans in this state, whether licensed in accordance with the provisions  
 1169 of sections 36a-510 to 36a-524, inclusive, as amended by this act, or  
 1170 exempt from licensing, shall accept applications or referral of  
 1171 applicants from, or pay a fee to, any secondary mortgage broker or  
 1172 originator who is required to be licensed under said sections but is not  
 1173 licensed to act as such by the commissioner, if the mortgage lender has  
 1174 actual knowledge that the secondary mortgage broker or originator is  
 1175 not licensed by the commissioner.

|   |                           |             |
|---|---------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                           |             |
| Section 1   | <i>September 30, 2008</i> | New section |
| Sec. 2  | <i>September 30, 2008</i> | 36a-2       |
| Sec. 3  | <i>September 30, 2008</i> | 36a-21      |
| Sec. 4  | <i>September 30, 2008</i> | 36a-485     |
| Sec. 5  | <i>September 30, 2008</i> | 36a-486     |
| Sec. 6  | <i>September 30, 2008</i> | 36a-488     |
| Sec. 7  | <i>September 30, 2008</i> | 36a-489     |
| Sec. 8  | <i>September 30, 2008</i> | 36a-490     |
| Sec. 9  | <i>September 30, 2008</i> | 36a-491     |
| Sec. 10   | <i>September 30, 2008</i> | 36a-492(a)  |
| Sec. 11   | <i>September 30, 2008</i> | 36a-493(a)  |
| Sec. 12   | <i>September 30, 2008</i> | 36a-494     |
| Sec. 13   | <i>September 30, 2008</i> | 36a-496     |

|         |                           |            |
|---------|---------------------------|------------|
| Sec. 14 | <i>September 30, 2008</i> | 36a-498    |
| Sec. 15 | <i>September 30, 2008</i> | 36a-498a   |
| Sec. 16 | <i>September 30, 2008</i> | 36a-510    |
| Sec. 17 | <i>September 30, 2008</i> | 36a-511    |
| Sec. 18 | <i>September 30, 2008</i> | 36a-513    |
| Sec. 19 | <i>September 30, 2008</i> | 36a-514    |
| Sec. 20 | <i>September 30, 2008</i> | 36a-515    |
| Sec. 21 | <i>September 30, 2008</i> | 36a-516(a) |
| Sec. 22 | <i>September 30, 2008</i> | 36a-517    |
| Sec. 23 | <i>September 30, 2008</i> | 36a-521(d) |
| Sec. 24 | <i>September 30, 2008</i> | 36a-523    |

***BA***        *Joint Favorable*

***INS***       *Joint Favorable*